

# San Francisco Bay Conservation and Development Commission

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November 4, 2016

**TO:** Commissioners and Alternates  
**FROM:** Enforcement Committee  
**SUBJECT: Enforcement Committee's Recommended Enforcement Decision Regarding Proposed Cease and Desist and Civil Penalty Order No. CDO 2016.02; Point Buckler Club, LLC and John D. Sweeney**  
(For Committee consideration on November 17, 2016)

## Recommendation

The Enforcement Committee recommends that the Commission adopt the Recommended Enforcement Decision by adopting and issuing proposed Cease and Desist and Civil Penalty Order No. CDO 2016.02 (Order) to Point Buckler Club, LLC and John D. Sweeney.

This enforcement proceeding involves alleged violations of the McAteer-Petris Act (MPA) and the Suisun Marsh Preservation Act (SMPA) at Point Buckler Island, which is located in the primary management area of the Suisun Marsh in Solano County (the Site). Point Buckler Club, LLC owns the Site. Mr. Sweeney is a principal of Point Buckler Club, LLC and owned the Site from approximately April 19, 2011, to October 27, 2014, when he conveyed the Site to Point Buckler Club, LLC. (Mr. Sweeney and Point Buckler Club, LLC are collectively referred to as Respondents.)

This matter arises out of an enforcement action commenced on April 22, 2016, by the Executive Director's issuance of a Cease and Desist Order to Respondents directing them, among other provisions, to cease and desist from further violating the MPA and SMPA at the Site. Respondents and BCDC staff have stipulated to two extensions to the 90-day expiration date of the Executive Director's order (Govt. Code § 66637(c)), which, unless further extended, will expire on November 17, 2016.

On May 23, 2016, the Executive Director issued a Violation Report/Complaint for the Administrative Imposition of Civil Penalties (Complaint) to Respondents and for the same violations of the MPA and the SMPA as alleged in the Executive Director's order. The Complaint proposed a civil penalty of \$952,000 for 35 separate violations of the MPA.

On September 12, 2016, Respondents submitted their Statement of Defense and accompanying documents including but not limited to Declarations of Respondent John Sweeney and Respondents' counsel, Larry Bazel, both with exhibits. Respondents generally admitted or did not dispute that they performed certain work and activities at the Site, as alleged in the Complaint, but raised a number of defenses challenging the Commission's jurisdiction or the principal allegations in the Complaint as to their liability. Among other defenses, Respondents argued that their work was exempt from permit requirements because the Commission, in 1984, certified a managed wetland individual management plan for the Site. Respondents also made numerous arguments as to mitigating factors that they contend make it unfair, unreasonable, or inequitable to hold them responsible for the violations through the assessment of civil penalties.

On October 6, 2016, the Enforcement Committee held a public hearing on this matter. The Committee considered the staff's presentation of its recommended enforcement decision, which was to adopt the proposed Order, and Respondents' presentation, which included testimony under oath by Respondent John Sweeney. The Committee also considered public comment by a number of parties, including testimony under oath by Dr. Stuart Siegel, an expert retained by the San Francisco Bay Regional Water Quality Control Board (Regional Board), in connection with its separate enforcement action against Respondents, and author of a Technical Assessment Report concerning the Site.

The Enforcement Committee adopted the staff's recommended enforcement decision with one modification. The Committee determined that the placement of fill to close each of seven tidal breaches of the remnant levee at the Site should be treated as a single violation, rather than seven violations as proposed by staff, and on the basis, reduced the proposed penalty by \$180,000, from \$952,000 to \$772,000.

## Staff Report

**Background.** The MPA requires any person wishing to place fill, extract materials, or make any substantial change in use of any water, land, or structure, within the area of the Commission's jurisdiction, including the Site, to obtain a permit from the Commission. Govt Code § 66632(a).

The SMPA generally requires any person wishing to perform or undertake any "development," as that term is broadly defined in Public Resources Code Section 29114(a), in the primary management area of the Suisun Marsh, including the Site, to obtain a marsh development permit from the Commission. Pub. Res. Code §§ 29500, 29501. However, no permit is required for any development specified in the component of the local protection program (LPP) for the Suisun Marsh prepared by the Suisun Resource Conservation District (SRCD) and certified by the Commission.

The SRCD's component of the LLP, known as the Suisun Marsh Management Program (SMMP), consists of a number of elements including, but not limited to, individual water management programs (commonly referred to as individual management plans or IMPs) for each privately-owned "managed wetland" within the primary management area of the Suisun Marsh. The SMPA defines the term "managed wetland" to mean "those diked areas in the marsh in which water inflow and outflow is artificially controlled or in which waterfowl food plants are cultivated, or both, to enhance habitat conditions for waterfowl and other water-associated birds, wildlife, or fish..." Pub. Res. Code. § 29105.

In 1984, IMPs were developed for each privately-owned managed wetland in the primary management area of the Suisun Marsh, including the Site, and were certified by the Commission. The IMP for the Site, denominated the "Annie Mason Point Club" (Annie Mason IMP), states that the club is contained within a single levee surrounded by Grizzly Bay to the north and Suisun Cutoff to the south, and describes two water control structures, one on the east side and another on the north side of the Site. The Annie Mason IMP further states that it is "necessary that the club follows a regular program of water management," and that:

*Proper water control necessitates inspection and maintenance of levees, ditches, and water control structures....Levees require frequent inspection and attention to prevent major breaks from occurring.*

Substantial evidence demonstrates that since at least the late-1980s, the Site was never managed in accordance with the Anne Mason IMP. For more detail, see the proposed Order at Section II (Findings), ¶¶ J through N.

Beginning no later than August 1988, with a first levee breach, the areas of the Site formerly consisting of managed wetlands began reverting to tidal marsh due to: (a) the lack of maintenance of the levees and water control structures; (b) the constant exposure of the Site to daily tides and the forces of the waves and winds; and (c) the periodic exposure of the Site to storm events. The reversion to and persistence of the Site as tidal marsh continued after May 1991 from three levee breaches, after August 1993 from five levee breaches, and after August 2003 from seven levee breaches, which provided daily tidal exchange between the Bay waters

and the interior channels and ditch, and provided internal tidal circulation throughout the Site. During this same period, due to the progressive erosion and deterioration of the remnant levees, portions of the Site interior to the levees were subject periodically to the inflow and outflow of tidal waters from overtopping of the levees.

Thus, over an approximately 20-year period before Mr. Sweeney purchased the Site, it was subject to tidal action and consisted of tidal marsh, and the Site did not contain managed wetlands as defined in the SMPA. See proposed Order, Section II, ¶¶ P through R. For these reasons, when Mr. Sweeney purchased the Site, the Annie Mason IMP no longer applied to the Site and, therefore, no potential development at the Site was specified in the SRCD's component of the LLP. Therefore, at the time Mr. Sweeney purchased the Site, a marsh development permit from the Commission was required pursuant to the SMPA to authorize any "development" (as defined in Pub. Res. Code § 29114(a)) at the Site, and a permit was required by the Commission, pursuant to the MPA (Government Code § 66632(a)), to authorize the placement of any fill or to make any substantial change in use of any water, land, or structure at the Site.

An aerial photograph taken in April 2011, and attached hereto as Exhibit A, shows that when Mr. Sweeney purchased the Site the levees were breached at seven different locations and the entire Site was intersected by countless tidal channels that, together with the remnant interior ditch and combined with overland flow of tidal waters, provided internal tidal circulation throughout the entire Site.

Before Mr. Sweeney began conducting levee construction and excavation activities at the Site (as discussed further below), he knew that the placement of fill on levees in managed wetlands in the Suisun Marsh, including levee repair work, requires authorization from multiple agencies. In June 2011, Mr. Sweeney contacted the SRCD and the United States Army Corps of Engineers (USACE) regarding proposed levee repair work at Chipps Island (Club 915) in the Suisun Marsh. SRCD provided Mr. Sweeney with copies of the USACE's regional general permit (issued pursuant to Section 404 of the Clean Water Act) and a relevant Biological Opinion prepared by the National Marine Fisheries Services, and Mr. Sweeney completed a USACE Wetlands Maintenance Permit Application. Working with SRCD through the permitting process, Mr. Sweeney obtained authorization from the USACE to perform the levee repair under the regional general permit. However, he did not adhere to the permit's conditions, and on October 24, 2011, the USACE issued a Notice of Violation to Mr. Sweeney regarding his unauthorized work at Chipps Island that resulted in an illegal discharge of fill.

The evidence suggests that when Mr. Sweeney contemplated the nature and extent of the levee construction, excavation, and other work that he planned to perform at the Site, based on his experience with SRCD and the USACE to authorize a levee repair at Chipps Island, he made a knowing and intentional decision to proceed without contacting SRCD, the USACE, or BCDC, and without applying for any of the permits that he knew or should have known were required. The evidence further suggests that Mr. Sweeney intentionally proceeded without contacting any regulatory agency to avoid the expense and delay of the permitting process, including the costs that would have been associated with providing mitigation for adverse impacts to tidal marsh, biological resources, and water quality.

Beginning by no later than May 2012, and without contacting or applying for a permit from BCDC (and without contacting SRCD or the USACE), Mr. Sweeney began excavating trenches and ditches in tidal marsh, rebuilding eroded levees, and placing fill on tidal marsh to construct new levees at the Site. This work included but may not have been limited to constructing new levees by excavating material from the ditch inside the eroded levees and placing such material on (a) the remnants of the eroded levees in locations where the eroded levees remained; and (b) tidal marsh and waters of the State inside former levee locations where the former levees had completely eroded and disappeared and had been replaced by tidal marsh. In addition, without applying for or obtaining a permit from BCDC, Mr. Sweeney removed one of the former water control structures from the Site and, in approximately September 2013, replaced a sunken dock located in the southeast portion of the Site with a larger dock at the same location. Each of these unauthorized activities constitutes “development” as defined in Public Resources Code Section 29114, and the construction of new levees and installation of a replacement dock constitute placement of fill, extraction of materials and/or a substantial change of use of land and water under Government Code Section 66632(a).

Some time in or about 2014, and without applying for a permit from BCDC, Respondents began operating the Site as a “Private Sport and Social Island located in the California Delta. Ideally suited for the Bay Area / Silicon Valley Executives who want to get away and enjoy kiting in a safe and secluded environment without boarding a plane.” [www.pointbucklerisland.com](http://www.pointbucklerisland.com). See [www.facebook.com/pointbucklerclubVIP](https://www.facebook.com/pointbucklerclubVIP). Such activities constitute both a “substantial change of use of land and water” under the MPA (Govt Code § 66632(a)) and “development” (as defined in Pub. Res. Code § 29114) under the SMPA.

On November 14, 2014, BCDC staff inspected the Site and identified a number of violations of the SMPA and the MPA. During the Site inspection, BCDC staff provided Mr. Sweeney with a copy of the Annie Mason IMP because he had previously informed BCDC staff that he did not have a copy of that document and had requested a copy.

The unauthorized work Respondents performed at the Site from May 2012 to January 29, 2015, as shown in a series of aerial photographs and Google Earth images, includes the following:

1. Initiated trench excavation and filling activities by no later than May 2012;
2. Installed a large dock in Annie Mason Slough and began grading in the southeastern corner of the Site by February 3, 2014;
3. Conducted levee construction and ditch excavation activities along the southern and southwestern portion of the Site, closing two of the tidal breaches, by March 24, 2014;
4. Conducted levee construction and ditch excavation activities in a clockwise direction around to the northeastern portion of the site, closing off the five remaining tidal breaches and cutting off all tidal channel connectivity to the interior of the Site, by August 6, 2014;
5. Completed the final segment of levee construction and ditch excavation activities along the eastern portion of the Site by October 28, 2014; and

6. Excavated three crescent ponds in tidal marsh in the interior of the Site by January 29, 2015.

On January 30, 2015, BCDC sent a letter to Respondents regarding the unauthorized work observed during the November 14, 2014 Site inspection. The letter discussed the regulatory framework governing the Suisun Marsh and, in particular the Site, and explained that based on available information, the history of the Site, and the recent Site visit, the Site had never been managed in accordance with the Annie Mason IMP and had long ago reverted to a tidal marsh due to neglect, abandonment, and/or the forces of nature. The letter advised Respondents that a marsh development permit from BCDC was required prior to performing any development at the Site, and that any work that could not be retroactively approved through such a permit would likely need to be removed, restoring the Site to tidal marsh. BCDC staff recommended that Respondents restore the Site, following BCDC approval of a professionally prepared plan, or begin compiling a permit application. Furthermore, BCDC staff requested that Respondents stop work at the Site.

Respondents continued to perform unauthorized work at the Site after receiving BCDC's letter dated January 30, 2015 directing them to stop work. See proposed Order Section II, ¶¶ DD, JJ, MM, PP, and QQ. An aerial photograph dated February 10, 2016, attached hereto as Exhibit B, shows certain unauthorized work performed by Respondents after receiving BCDC's letter dated January 30, 2015, including but not limited to installation of two helicopter landing pads and placement of three wind-break platforms, all on tidal marsh.

On July 28, 2015, the Regional Board sent Respondent Point Buckler, LLC a Notice of Violation for Filling Waters of the United States and State at the Site, alleging violations of both the federal Clean Water Act and the California Water Code.

On August 10, 2016, the Regional Board issued Cleanup and Abatement Order No. R2-2016-0038 to Respondents for unauthorized activities conducted at the Site (Regional Board Order). Among other terms and conditions, the Regional Board Order:

1. Prohibits the discharge of fill material except as allowed by plans accepted or approved by the Regional Board;
2. Prohibits the removal or destruction of tidal marsh vegetation in a manner that adversely impacts water quality or beneficial uses;
3. Requires Respondents to submit an Interim Corrective Plan including specified measures by no later than November 10, 2016;
4. Requires Respondents to submit a Point Buckler Restoration Plan including specified actions by no later than February 10, 2017; and
5. Requires Respondents to submit a Mitigation and Monitoring Plan including specified information by no later than February 10, 2017.

In addition, the Regional Board issued a Complaint for Administrative Civil Liability Complaint No. R2-2016-1008 to Respondents seeking \$4,600,000 in civil fines for violating: (1) San Francisco Bay Basin Water Quality Control Plan Discharge Prohibition No. 9; and (2) Clean

Water Act section 301 for unauthorized discharge of fill to waters of the State and United States on the Site. The Regional Board is scheduled to hold a hearing on the Administrative Civil Liability Complaint on December 14, 2016.

**Violations of the MPA and SMPA.** Respondents have violated and continue to violate the MPA by conducting the unpermitted activities at the Site, including but not limited to:

1. Placing fill in waters of San Francisco Bay, including tidal marsh, by constructing and rebuilding levees, excavating ditches and four crescent shaped ponds, installing a new dock in Annie Mason Slough, constructing roads, and placing numerous containers, trailers, and other structures and two helipads on tidal marsh; and
2. Making substantial changes in the use of water, land, or structures within the area of the Commission's jurisdiction by: (a) closing all the tidal breaches that existed in 2011 when Mr. Sweeney purchased the Site and thereby cutting off all tidal activity to the interior of the Site; (b) installing a new water control structure in the western portion of the Site; (c) draining the Site to further alter the pre-existing tidal marsh hydrology; (d) removing or destroying tidal marsh vegetation by the placement of fill, excavation activities, mowing activities, drainage activities, and bringing goats to the Site and allowing them to graze on the tidal marsh vegetation; (e) installing numerous trailers and containers and two mobile helipads at the Site; and (f) developing and operating the Site for intensive recreational uses including but not necessarily limited to kite-boarding.

Respondents have violated and continue to violate the SMPA by conducting unpermitted development at the Site as described herein, including but not limited to: (a) placing fill in waters of San Francisco Bay, including tidal marsh, by constructing and rebuilding levees; (b) excavating ditches and four crescent shaped ponds; (c) installing a new water control structure in the western portion of the Site; (d) installing a new dock in Anne Mason Slough; (e) constructing roads on tidal marsh; (f) placing numerous containers, trailers and other structures and two mobile helipads on tidal marsh; (g) removing or destroying tidal marsh vegetation by the excavation activities, mowing activities, and bringing goats to the Site and allowing those goats to graze on the tidal marsh vegetation; and (h) developing and operating the Site for intensive recreational uses including but not necessarily limited to kiting.

**Requirements of Proposed Cease and Desist Order.** The proposed Order would require Respondents to:

1. Cease and desist from:
  - a. Placing any fill within, or making any substantial change in use of, any area subject to tidal action, or that was subject to tidal action before Respondent performed the unauthorized activities described in the Order, at the Site without securing a permit from the Commission under the MPA, and
  - b. Conducting or engaging in any activity on the Site constituting "development," as defined in the SMPA, without securing a marsh development permit from the Commission under the SMPA.

2. Submit a Point Buckler Restoration Plan, acceptable to the Executive Director, by no later than February 10, 2017, that includes: (a) a Restoration Plan describing corrective actions designed to restore, at a minimum, the water quality functions and values of the tidal marsh existing at the Site prior to Respondents' unauthorized activities; and (b) a Restoration Monitoring Plan that includes monitoring methods and performance criteria designed to monitor and evaluate the success of the implemented restoration objectives. This condition of the proposed Order is identical to a condition in the Regional Board Order.
3. Submit a Mitigation and Monitoring Plan, acceptable to the Executive Director, by no later than February 10, 2017, that includes a proposal to provide compensatory mitigation to compensate for any temporal and permanent impacts to wetlands and other waters of the State that resulted from Respondents unauthorized activities at the Site. This condition of the proposed Order is identical to a condition in the Regional Board Order.
4. By no later than March 3, 2017, apply for a permit to request authorization from the Commission for the placement of fill, extraction of materials, substantial change of use, and/or development activities that Respondents have conducted or performed at the Site at any time from April 19, 2011 through the date of the Order.
5. Apply for and obtain a permit from the Commission prior to any placement of fill, extraction of materials, substantial change in use, or development activities that Respondents propose to undertake or conduct at the Site after the date of the Order.

**Proposed Civil Penalty Order.** The proposed Order addresses violations of both the MPA and the SMPA, but the proposed penalty is solely for violations of the MPA. There is no statutory authority for the imposition of administrative penalties under the SMPA, and, therefore, no penalty is proposed for Respondents violations of the SMPA.

Government Code Section 66641.5(e) provides that the Commission may administratively impose civil liability for any violation of the MPA in an amount of which shall not be less than \$10 nor more than \$2,000 for each day in which the violation occurs or persists, but may not administratively impose a penalty of more than \$30,000 for a single violation.

The Complaint includes a table, attached hereto as Exhibit C, describing each violation, explaining how the work or activity violates the MPA, and the amount of the penalty sought for each violation. Staff proposed a total penalty of \$952,000 for 35 separate violations of the MPA. The Enforcement Committee determined that the placement of fill to close each of seven tidal breaches of the remnant levee at the Site, considered by staff to be seven violations (as shown in the first row of the Exhibit C table), should be treated as a single violation, and on the basis, reduced the proposed penalty by \$180,000, from \$952,000 to \$772,000.

Government Code Section 66641.9(a) states:

*In determining the amount of administrative civil liability, the commission shall take into consideration the nature, circumstance, extent, and gravity of the violation or violations, whether the violation is susceptible to removal or resolution, the cost to the state in pursuing the enforcement action, and with respect to the violator, the ability to pay, the effect on ability to continue in business, any voluntary removal or resolution efforts undertaken, any prior history of violations, the degree of culpability, economic savings, if any, resulting from the violation, and such other matters as justice may require.*

The proposed Order includes the following findings concerning the statutory penalty factors:

1. **Nature, circumstances, extent, and gravity of the violations.** Excavation of tidal marsh at the Site physically removed estuarine habitat and the placement of fill eliminated surface water and wetland habitats. The harm from Respondents' unauthorized filling, destruction of tidal marsh, and cutting-off of tidal action at the Site was and is substantial, has adversely impacted beneficial uses of Suisun and Grizzly Bays, and likely resulted in the illegal take of threatened or endangered species protected under the California and federal Endangered Species Acts. Unauthorized filling and excavation activities occurred outside work activity windows established to protect sensitive species in the Suisun Marsh. Blocked tidal channels at the Site are preventing longfin smelt from being able to access spawning grounds, young salmonids from accessing feeding grounds, and have cut off the export of food material from the Site's interior wetlands needed to support the threatened Delta smelt.
2. **Whether the violations are susceptible to removal or resolution.** Respondents' unauthorized filling and other unauthorized construction activities at the Site are potentially susceptible to removal or resolution, but to date, Respondents have taken no action to remove the unauthorized work or to restore tidal action or tidal marsh at the Site. Moreover, the temporal impacts to tidal marsh habitat and biological resources from Respondents' unauthorized activities are unavoidable, continuing, and potentially increasing with every passing day.
3. **The costs to the state in pursuing the enforcement action.** BCDC staff has incurred substantial staff costs in pursuing this enforcement action. These costs consist of time spent by numerous staff members on two Site visits; two meetings with Respondents and their counsel at BCDC's offices; numerous meetings among BCDC, Regional Board, and USEPA staff, including two multi-agency meetings together with Respondents and their counsel; preparation of an Executive Director Cease and Desist Order and a Violation Report/Complaint for the Administrative Imposition of Civil Penalties (Complaint); reviewing

Respondents' Statement of Defense and preparing a recommended enforcement decision, and preparing for and participating in a contested hearing before the Enforcement Committee.

4. **Ability to pay and effect on ability to continue in business.** The Regional Board staff investigated and analyzed Respondents financial resources, and determined that Respondents have the ability to pay a substantial penalty. Respondents claim that the Regional Board made a number of factual errors in its analysis of Respondents' ability to pay. However, Respondents have submitted no evidence of Mr. Sweeney's assets, or the assets of Point Buckler Club, LLC, to establish that they would be unable to pay the penalty proposed by BCDC staff in the Complaint.
5. **Any voluntary removal or resolution efforts.** As noted above, Respondents have taken no action to remove the unauthorized fill or other work or to restore tidal action or tidal marsh at the Site, and they continued to develop the Site for their kiteboarding operations after BCDC staff requested that they stop work and apply for a permit, in a letter dated January 30, 2015. Respondents claim that they intend to apply for a BCDC permit to seek authorization for certain completed work or proposed future work at the Site. However, BCDC staff first requested that Respondents apply for a permit in a letter dated January 30, 2015, over 20 months ago, but to date that they have failed to do so. Respondents recently proposed to BCDC staff a conceptual plan for future use and partial restoration of the Site. However, Respondents did not prepare the conceptual plan based on a technical analysis of the nature and extent of tidal exchange that would be necessary to restore tidal marsh and associated habitat values at the Site. Furthermore, Respondents have declined to discuss mitigation for temporal impacts resulting from the unauthorized work at the Site and for Respondents proposed future uses of the Site. Respondents have been only minimally cooperative.
6. **Any prior history of violations; the degree of culpability.** Before commencing unauthorized work at the Site, Mr. Sweeney knew that the placement of fill on levees in the Suisun Marsh requires authorization from multiple agencies. In June 2011, Mr. Sweeney contacted SRCD and the USACE to obtain authorization for levee repair work at Chipps Island in the Suisun Marsh (Club 915). Mr. Sweeney did not adhere to the conditions of the USACE's Regional General Permit, and on October 24, 2011, the USACE issued a Notice of Violation to Mr. Sweeney regarding his unauthorized work at Chipps Island that resulted in an illegal discharge of fill. Based on Mr. Sweeney's experience with the SRCD and the USACE at Chipps Island, he may have made a knowing and intentional decision to proceed with unauthorized construction activities and other work at the Site without contacting any regulatory agency and without applying for any of the permits he knew or should have known were required. At a minimum,

Respondents' conduct at the Site was unreasonable and demonstrated a willful indifference to the regulatory permitting process that is intended to protect water quality, beneficial uses, and to prevent illegal discharges.

7. **Economic savings resulting from the violations.** By conducting filling, excavation, and other activities at the Site without authorization, Respondents avoided the costs of obtaining permits from BCDC and USACE, a Clean Water Act Section 401 water quality certification from the Regional Board, and perhaps other local approvals or permits, as well as the costs of complying with resource agency requirements to protect endangered or threatened species (such as, at a minimum, performing certain work only during work activity windows). Respondents also avoided the costs of mitigation for filling portions of the Site and for associated adverse impacts to biological resources. In addition, Respondents have benefitted economically from their unauthorized activities. The new levees Respondents constructed around the perimeter of the Site have provided an economic benefit by allowing them to conduct their commercial kiteboarding business, and expand kiteboarding operations in the northwestern portion of the Site, for the past two years without having those operations disrupted or damaged from tidal action, including tidal flooding from periodic overtopping of the former remnant levees.

Attachments to this Recommendation include: (1) Aerial photograph dated April 2011; (2) Aerial Photograph dated February 10, 2016; (3) table showing staff's proposed penalty for 35 violations of the MPA; and (4) proposed Cease and Desist and Civil Penalty Order No. CDO 2016.02.

The Administrative Record in this matter consists of: (1) Violation Report/Compliant for the Administrative Imposition of Civil Penalties; (2) Respondents' Statement of Defense and accompanying documents; (3) Staff's Recommended Enforcement Decision; (4) all documents listed in the Index of Administrative Record, attached as Exhibit A to the Proposed Order. All of these materials are available to review on the Commission's website at <http://www.bcdc.ca.gov/enforcement/20161006Agenda.html>.